IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Court's order whether the case is or not approved for reporting

Chapter VIII, Rule 32(2) (b)
Description of case

Crl. Misc. Application No. 168 of 2006

Date of Decision: 22-6-2006

~~A.F.R. (Approved for Reporting)~~

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Not approved for reporting

Date:- 22-6-206 Initials of Judge

Note:- Bench Reader will attach this at the top of the first page of the judgment when it is put up before the Judge for signature.

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 168 of 2006

1. Pradeep Kumar.
2. Amit Kumar.
   Both sons of Late Sri Raj Kumar, resident of 116, Purvi Ambar Talab, P.S. Gangnaher Roorkee, district Hardwar.

....Applicants

Versus

1. Additional Sub Divisional Magistrate, Roorkee, district Hardwar.
2. Hari Mohan Kapoor son of late Sri Mulkraj Kapoor, R/o 642, Sainik Colony, Roorkee, P.S.Gangnaher Roorkee, district Hardwar.

.....Opp. parties.

Sri Rajendra Singh, Learned counsel for the applicant.
Learned A.G.A. & Sri Lokpal Singh for Opp.parties.

Dated: 22.06.2006

Hon'ble J.C.S. Rawat, J.

1. Heard learned counsel for the parties and perused the record.

2. This is a petition under section 482 Cr.P.C. to quash and set aside the impugned orders dated 21.2.2005 and 3.2.2006 passed by the Opposite Party No. 1 in case No. 3 of 2003 Hari Mohan Kapoor Vs PradeepKumar & others under section 145 cr.P.C., Police station gang Naher Roorkee, district Haridwar

3. Brief facts for the disposal of this petition are that a proceedings under section 145 Cr.P.C. with regard to the certain immovable property were initiated by the Sub Divisional Magistrate. After recording the evidence the learned Magistrate passed the impugned order on 21.2.2005 and appointed a receiver Manohar Lal Shar ma, Advocate and directed to remove the illegal possession on the spot and hand over the possession to the reciver Sri Manohar Lal Sharma. It was further directed that the impugned order will be effected only after the disposal of the writ petition pending in the High Court and hand over the possession to that person in case there is any order passed by the High Court.

4. Thereafter an application was moved that some other person may be appointed as receiver and vide order dated 3.2.2005 Executive Officer of Nagar Palika, Roorkee was appointed as Supurdgar in place of Sri Manhohar Lal Sharma. The order passed by the learned Sub Divisional Magistrate is revisable under the provisions of Code of Criminal Procedure. If other efficacious remedy has been provided under the Code of Criminal Procedure to seek the remedy involving inherent powers under section 482 Cr.P.C. is not available to the parties. In this case the other efficacious

remedy of revision was available to the applicant and, as such, the petition is devoid of merit and is liable to be dismissed.

5. The petition is dismissed. The interim order, if any, is vacated.

6. All the pending miscellaneous application(s) in this case, if any, shall stand disposed of accordingly.

(J.C.S. Rawat, J.)

22nd June,2006
Shiv